

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

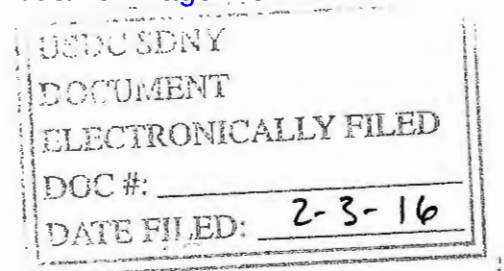
-----x
PATRINA MACKLIN,

Plaintiff,

- against -

AMERICAN BUILDING MAINTENANCE,

Defendants.
-----x



15 Civ. 3675 (PAC) (RLE)

**ORDER ADOPTING
REPORT AND
RECOMMENDATION**

HONORABLE PAUL A. CROTTY, United States District Judge:

Pro se plaintiff Patrina Macklin sued her employer, ABM Janitorial Services – Northeast, Inc. (ABM) (incorrectly captioned as “American Building Maintenance”) for violating the Family Medical Leave Act (FMLA), 23 U.S.C. §§ 2601–2654, alleging ABM unlawfully denied her requests for leave to flee from domestic violence. (Dkt. 1.) The matter was referred to Magistrate Judge Ronald L. Ellis (Dkt. 5), and defendants moved to dismiss. (Dkt. 11.) On January 7, 2016, Magistrate Judge Ellis issued a report and recommendation (R&R) that the Court dismiss Macklin’s complaint. (Dkt. 21.) Magistrate Judge Ellis’s R&R noted the process and timeline for objecting to the R&R, as well as the consequences of failing to timely object. (*Id.* at 8–9.)

The Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(c). When a timely objection is made to the magistrate judge’s R&R, the Court must review the contested portions *de novo*, but it “may adopt those portions of the [R&R] to which no objections have been made and which are not facially erroneous.” *La Torres v. Walker*, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). If no objection is made to the R&R, the Court “need only satisfy itself that there is no clear error on the face of the record.” *Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

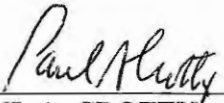
Macklin has filed no objections to Magistrate Judge Ellis’s R&R. Finding no clear error, the Court adopts the R&R’s findings as its own. The statute of limitations for an FMLA claim is two

years after “the date of the last event constituting the alleged violation for which the action is brought.” 29 U.S.C. § 2617(c)(1). If a violation is willful, the period is extended to three years. *Id.* § 2617(c)(2). Macklin’s complaint was filed more than six years after the last event that could plausibly be construed as constituting an alleged violation. It thus falls outside either limitations period. Untethered to a federal cause of action, the Court declines to exercise supplemental jurisdiction over Macklin’s state-law claims.

Macklin’s complaint (Dkt. 1) is DISMISSED in its entirety. Her federal claims are dismissed with prejudice. To the extent that the complaint suggests claims that are cognizable under New York law, those claims are dismissed without prejudice. The Clerk is directed to enter judgment and terminate the case. Pursuant to 28 U.S.C. § 1915(a)(3), the Court finds that any appeal from this order would not be taken in good faith. *See Coppedge v. United States*, 369 U.S. 438 (1962).

Dated: New York, New York
February 3, 2016

SO ORDERED



PAUL A. CROTTY
United States District Judge

Copy mailed by chambers to:

Patrina Macklin
120-15 Flatlands Ave.
Brooklyn, NY 11208